



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

DR ANDREW BRYLOWSKI

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-11-1091-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

NOVEMBER 29, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "As the explanation of review suggests, the DWC 32 and EES 14 received by our office were reviewed to confirm that the type of examination requested was to determine maximum medical improvement and impairment rating. On the examinee questionnaire, [Claimant] reported that he feels he has 'depression, anxiety, or other emotional disorders' because of his injury and that 'he avoids physical activity for fear of greater pain, injury or disability' (please refer to page 2 of the designated doctor report). While Texas Mutual Insurance Company has only accepted the compensable injury to include lower left leg and thigh burn, mental and behavioral impairment was also calculated in accordance to rule 130.6(5)."

Amount in Dispute: \$936.47

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requestor was a designated doctor (DD) assigned to determine maximum medical improvement along with the degree of impairment. (See EES-14, the requestor's DWC-60 packet.) The DD referred the claimant for psychological and neuropsychological testing based on reports of depression volunteered by the claimant during the exams. (See requestor's DWC-60 packet.) Then the DD billed Texas Mutual codes 99456-W5, WP, 96101, 96118, and 99082. Texas Mutual paid the 99456-W5, WP then denied the remainder. Texas Mutual argues the only reason to assess a psychological component to the impairment is in the determination of the extent of injury, which the DD was not asked to do. Further, the DD did not incorporate the results of the testing into the DWC-69. For these reasons Texas Mutual declined to pay codes 96101 and 96118."

Response Submitted by: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 30, 2010	CPT Code 96101	\$630.85	\$0.00
	CPT Code 96118	\$305.62	\$0.00
TOTAL		\$936.47	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §130.6, effective January 1, 2007, regulated designated doctor examinations for maximum medical improvement and impairment ratings.
3. 28 Texas Administrative Code §134.204, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - CAC-W1-Workers compensation state fee schedule adjustment.
 - 748-Type of examination was not requested (refer to DWC 22 or DWC32).
 - 892-Denied in accordance with DWC rules and/or medical fee guideline.
 - CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - 724-No additional payment after a reconsideration of services.

Issues

Was the billing in accordance with 28 Texas Administrative Code §130.6(b)? Is the requestor entitled to additional reimbursement?

Findings

According to the explanation of benefits, the respondent denied reimbursement for the maximum medical improvement (MMI) and impairment rating (IR) evaluation based upon reason code "748."

On August 24, 2010, the Division ordered the requestor to perform examinations to determine maximum medical improvement (MMI) and impairment rating (IR) on the EES-14 Form.

On September 30, 2010, the requestor billed CPT codes 99456-W5-WP, 96101, 96118 and 99082.

The requestor billed and was paid \$650.00 for the MMI/IR evaluation, CPT code 99456-W5-WP, in accordance with:

- 28 Texas Administrative Code §134.204(i)(1)(A) that states "Impairment caused by the compensable injury shall be billed and reimbursed in accordance with subsection (j) of this section, and the use of the additional modifier "W5" is the first modifier to be applied when performed by a designated doctor."
- 28 Texas Administrative Code §134.204(i)(2)(C) states "If the examining doctor determines MMI has been reached and an IR evaluation is performed, both the MMI evaluation and the IR evaluation portions of the examination shall be billed and reimbursed in accordance with paragraphs (3) and (4) of this subsection."
- 28 Texas Administrative Code §134.204(j)(3)(C) states "The following applies for billing and reimbursement of an MMI evaluation: (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350."
- 28 Texas Administrative Code §134.204(j)(4)(C)(ii)(II)(a) states "The following applies for billing and reimbursement of an IR evaluation: If full physical evaluation, with range of motion, is performed: \$300 for the first musculoskeletal body area."

The respondent contends that the requestor is not due additional reimbursement because "Texas Mutual argues the only reason to assess a psychological component to the impairment is in the determination of the extent of injury, which the DD was not asked to do. Further, the DD did not incorporate the results of the testing into the DWC-69. For these reasons Texas Mutual declined to pay codes 96101 and 96118."

The requestor states that "While Texas Mutual Insurance Company has only accepted the compensable injury to include lower left leg and thigh burn, mental and behavioral impairment was also calculated in accordance to rule 130.6(5)."

28 Texas Administrative Code § 130.6(b)(5) states "When the extent of the injury may not be agreed upon by the parties (based upon documentation provided by the treating doctor and/or insurance carrier or the comments of the employee regarding his/her injury), the designated doctor shall provide multiple certifications of MMI and impairment ratings that take into account the various interpretations of the extent of the injury so that when the Division resolves the dispute, there is already an applicable certification of MMI and impairment rating from which to pay benefits as required by the Act."

The requestor further noted on the MMI/IR report that "Mental and behavioral impairment: This is done as per rule. Please note that the examiner initially considered a rating in this area however after objective psychiatric measures were consistent with symptom over reporting, analysis is done because of rule but not included in the DWC 69."

The Division reviewed the requestor's billing and finds that the mental and behavioral examination and impairment was not included in the billing of 99456-W5-WP.

28 Texas Administrative Code §130.6(b) states "The designated doctor shall address the issue(s) in question and any issues the Division may request the designated doctor to consider and confine the report to only those issues."

The Division concludes that the disputed services, CPT codes 96101 and 96118, were not examinations requested by the Division on the EES-14 Form; therefore, the respondent's denial based upon reason code "748" is supported. As a result, reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	04/17/2014 _____ Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.